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SUBJECT: MPT Describes Vietnam's Telecom Situation

1. (SBU) SUMMARY and Introduction. On February 17, 2004, the Ministry of Post and Telematics (MPT) addressed a series of questions prepared and submitted in advance by Post on the following topics: services and licenses, interconnection, charges and dispute resolution, spectrum allocation, and regulation and relationship with SOEs. Dr. Phan Tam, Deputy Director General of the Department of International Cooperation, led the GVN side, which also included of six other reps from MPT's Legal Affairs, Finance and Planning, Telecommunications, and Radio Frequencies departments. Econcouns and Econoff attended the first formal discussion of Vietnam's telecommunications situation with MPT experts. END SUMMARY AND INTRODUCTION.

Services and Licenses

2. (SBU) Dr. Tam said that all basic services described in the United Nation's International Telecommunications Union (ITU) and the WTO's classification system were available in Vietnam. Currently, there are five types of licenses: a) network telecommunications, b) telecommunications services, c) network experiments on a trial basis, d) establishment of private networks, and e) telecommunications in exclusive economic zones and on the continental shelf. Econcouns asked what type of license covered Internet connection. Tam said that the network license (type a) covered basic Internet connection. The services license (type b) covers value added and resale services that would include some forms of Internet access. The private network license (type d) is for internal networks for private companies and is covered under Article 35 of the telecommunications ordinance.

3. (SBU) MPT must verify and approve all license applications. For a network license, approval takes 90 days from submission of a complete application. The approval process is not to exceed a period of 120 days. For a services license, approval takes 60 days from complete submission, not to exceed 75 days. Only state-owned Network Infrastructure Providers (NIPs) can apply for a network license. For the other licenses, all businesses may apply as long as they operate in accord with the laws governing foreign investment. Econcouns asked if there was any restriction placed on what type of State Owned Enterprise (SOE) could become an NIP. Tam responded that there was no restriction as long as the SOE had infrastructure sufficient to perform the service.

4. (SBU) MPT said that six firms have licenses to provide network telecommunications: a) Vietnam Posts and Telecommunications Corporation (VNPT), b) Vietnam Electronic and Telecommunications Company (Vietel, operated by the Armed Forces), c) Electronic Telecom Company (ETC), d) Saigon Postel (SPT), e) Hanoi Telecom (Hannel), and f) Vina Shipping Electronic and Information Company (Vishipel). These companies are all wholly state-owned, except for SPT and Hannel, which are joint stock companies with majority state ownership. Neither stock company is publicly listed. (COMMENT: While there is no monolithic monopoly and there is some competition, it is only between SOEs. END COMMENT.)

Interconnection

5. (SBU) MPT defines interconnection as the provision of technical and communications services, by NIPs with essential facilities, to enterprises providing communications services to consumers and other enterprises. Costs are based on the agreement negotiated between the NIP and the Service Provider (SP). The determination of interconnection points is based on negotiations between the NIP and the SP, but NIPs with essential facilities must provide for SPs to make connections under favorable conditions. For local calls, interconnection is usually at the local exchange connection. For long distance calls, interconnection normally is at the local tandem exchange or the long distance exchange. For international calls, interconnection is usually at the international exchange

station or the long distance exchange. Interconnection for mobile calls can be at the local tandem exchange, the long distance exchange, or the mobile exchange.

Charges and Dispute Resolution

16. (SBU) According to MPT, the basic principles governing charges are as follows: a) charges must comply with policies governing social-economic development and conform with international standards, b) charges must be based on actual costs that are in line with international standards, c) charges must be calculated in Vietnamese Dong. Interconnection costs have two basic components, the costs of setting up the interconnection and the actual connection. Therefore, charges for interconnection must be based on how and where the link was established as well as on the actual costs involved in establishing the connection. There should also be no discrimination between companies offering similar services. NIPs should also facilitate the provision of unbundled services from SPs with appropriate charges based on the actual costs of providing each service. The costs shall be itemized by appropriate segment of service and shall be fairly and reasonably calculated in comparison with international and regional charges. Charges may also take into account certain contributions to provide low-cost public services, mainly to rural areas.

17. (SBU) There are two types of disputes, those that happen during the negotiation process and those that happen during operations, according to MPT. During a negotiation dispute, MPT will arbitrate, but if a party is unhappy with the decision the party can appeal to the Administrative court. However, the party must carry out MPT's decision in the meantime. After the decision of the Administrative Court has been rendered, the party can appeal to the next level in accordance with the Litigation Procedural Law, but that will be the final appeal. A dispute occurring during operations is handled in a similar fashion. Econcouns asked about dispute resolution involving users of services and the company providing the service. Tam replied that the contract would cover such a case and that the business contract law would apply if the dispute went to any court of law.

Spectrum Allocation

18. (SBU) MPT is responsible for spectrum allocation. The Prime Minister promulgates the national frequency plan. Regulations must comply with international standards set by the ITU. MPT has detailed regulations on channel, bandwidth, and reuse. Econoff asked if "reuse" meant that a company with a license could resell a portion of its allocation. After several minutes of discussion in Vietnamese among the MPT attendees, Tam replied that "reuse" only referred to whether a company could use the frequency elsewhere in the country if there was too much interference in their present location. If a company has excess bandwidth, the firm must allow the government to re-allocate it.

19. (SBU) Econcouns asked whether the GVN approached spectrum allocation in a similar fashion to land, where the GVN allows private ownership of land use rights, but not of the land. Tam said that analogy was correct. MPT does not have an auction process like the process in the U.S. Properly licensed companies can apply to receive a one-year license that is similar to a rental of the frequency. MPT and the Ministry of Finance determine the fees. Regulations are currently being drafted for fixed and wireless use of a local loop.

Regulatory Regime and MPT's Relationship to SOEs

10. (SBU) MPT is the administrative office that regulates the telecommunications companies. There is no business relationship between MPT and the SOEs. SOEs operate under the enterprise law, and the Ministry of Finance controls the capital and financial aspects of the SOEs' operations. MPT has about 550 employees nationwide. About 150 staff is engaged in policy making in Hanoi. Econcouns asked how the President of VNPT is selected. This question also caused quite a bit of conversation on the MPT side before Tam responded that the Prime Minister assigns the President and other officers of VNPT. Other companies such as Vietel and Vishipel are controlled by other government entities (namely, the military and the maritime industry), which choose their own officers internally. Stockholders of the two joint stock companies are involved in the selection process of their officers.

Concluding Remarks

11. (SBU) Econcouns conveyed his concern that, although reform has begun, much remains to be done. He also stressed the importance of this sector to maintaining Vietnam's robust economic growth. To illustrate the benefits of liberalization, he cited the example of the Japan's decision to deregulate its mobile market as the springboard to Japan's spectacular cell phone market growth. Tam responded with two points, first that Japan faced a great deal of difficulties on its path of reform, and that the GVN was very interested in increasing competition. Both sides agreed on the value of continuing this dialogue.

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